



## MONTANA STATE HOSPITAL POLICY AND PROCEDURE

### INVOLUNTARY MEDICATIONS

**Effective Date:** November 17, 2004

**Policy #:** PS-02

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- I. PURPOSE:** To define the circumstances under which patients, for whom the court has authorized the use of involuntary psychotropic medications, may be administered involuntary medications and to define the administrative review process under which Montana State Hospital may authorize involuntary medications.
- II. POLICY:**
  - A. Montana statute allows the Medical Director of Montana State Hospital to authorize involuntary medications under several circumstances which include, but are not limited to, the following:
    1. The patient has been committed to the facility and the applicable court has authorized involuntary medications as a part of the commitment, and
    2. The Chief Medical Officer of the facility or a practitioner designated by the court approves it prior to the beginning of the involuntary administration, and
    3. If possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration.
    4. There must be a review of the administration of involuntary medication administration by the committee, should the procedure continue, at fourteen (14) days and after ninety (90) days.
  - B. The United States Supreme Court has recognized a citizen's right to refuse treatment, including medication, without due process. The State of Montana has defined due process to include **both** a valid order of a court of competent jurisdiction and an internal administrative review by an Involuntary Medication Review Board (IMRB) created within the Hospital. Statute allows the Chief Medical Officer, after review of details of a case, to authorize involuntary medications, but it implies that such a decision should be made only after a duly organized review committee concurs with an affirmative decision. It does not, however, abrogate the Chief Medical Officer's authority to order medications in the absence of such a concurring opinion, specifically when the review cannot be arranged within five working days of the date of the request for medications. MSH will presume, for the purposes of this statute, therefore, that a prior review and concurrence of the IMRB will be prerequisite for the administration of involuntary medications, except in specific emergency

circumstances. Those circumstances must be clearly documented within the patient's medical record by the attending practitioner.

- C. As is the case for most forms of treatment, good medical practice and more therapeutic practitioner-patient relations will more likely exist if medications are administered with the informed consent of the person receiving the treatment. Therefore it will be the policy of MSH to use involuntary medications and to order them **ONLY** during the period of time that the patient continues to require medications but concurrently refuses to accept them. Orders for involuntary administration of medications will be discontinued no later than fourteen (14) days after the day the patient agrees to accept medications voluntarily. After significant compliance with medications for at least this fourteen day period of time, the attending practitioner will either discontinue the "involuntary" aspect of the medication order or will rewrite the order(s) in such a way that the Medication Administration Records will indicate the medications are not to be automatically administered involuntarily in the event of refusal by the patient. In addition, the patient must be notified that medications are being given voluntarily from that point forward. An order for involuntary medications may remain in the medication administration record **ONLY** when it has been clearly established, and **documented** within the medical record, that the patient is unable or unwilling to provide consent, or changes his/her mind about medications so frequently as to seriously impede the progress of treatment, and a continual order for involuntary medications is necessary to assure the logical continuity of speedy treatment. In any event, continued use of involuntary medications must be reviewed by the IMRB again at fourteen (14) days and then after 90 days. Such reviews must be documented and reported to the Medical Director by the same method used to report initial review.
- D. Only one initial IMRB hearing (and necessary reviews) will occur during each hospitalization. Should the need arise for involuntary medications at a later time, but within the same hospital stay, the attending practitioner shall have authority to restart involuntary medications at his/her discretion, but the Medical Director will be so notified and the new order will be subject to the same fourteen and ninety day reviews by the IMRB described above.
- E. The involuntary use of medications, as established by the IMRB, may remain in effect throughout the hospitalization.
- F. Notwithstanding the above policy, it will always be the goal of this hospital and its Medical Staff to administer medications with the full consent of each patient receiving those medications. Each attending practitioner at MSH will strive to use whatever means at his/her command to assure patients treated retain, whenever possible, the full and unrestricted right to provide meaningful and collaborative opinion into the process of their treatment, especially where that treatment represents a significant intrusion into their life and body.

**III. DEFINITIONS:**

- A. Chief Medical Officer: the Medical Director, or his designee, of MSH. Any time the Medical Director is unavailable, ANY other regular member of the psychiatry staff may act as designee.
- B. Emergency: exists when the attending or covering practitioner, after proper evaluation of the circumstances, is of the opinion that the patient, as a result of his mental illness, represents an imminent danger to himself or to others, OR that the patient suffers a degree of impairment from his mental illness that can reasonably be expected to soon result in such a danger if the condition is not immediately treated with medication.
- C. Involuntary Medication: any medication administered a) against the specific wish of a person or, b) when a person cannot give consent and it can be reasonably assumed that the patient, if able to consent, would refuse to do so, or c) to a person who has a legally appointed guardian who cannot or will not give consent. Administration of any drug via a parenteral route is not, in and of itself, to be construed as involuntary. Parenteral administration of medication is considered involuntary only if one or more of the above criteria are met.
- D. Involuntary Medication Review Board: (IMRB) is the statutorily defined review committee appointed by the Medical Director which has the authority to a) review his decision to authorize the use of involuntary medications and b) authorize the use of involuntary medications requested by the attending practitioner, when all statutory requirements have been otherwise met. Its chair in every instance will be a psychiatrist. The IMRB will consist of the chair, the attending practitioner of the patient, registered nurse or licensed practical nurse and at least one person who is not an employee of the hospital. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time and place of the review and must be allowed to appear and give testimony and evidence.
- E. Medications: for the purposes of this policy, medications as herein referred to means only psychotropic medications, but with the explications set forth below.
- F. Psychotropic Medications: are those medications commonly used by practitioners to treat the symptoms of mental illness. These include, but are not be limited to, antipsychotics (traditional and atypical), antidepressants, mood stabilizers, several anti-epileptics, anxiolytics, psychostimulants and the hormone levothyroxine. Several other medications, such as insulin, antihypertensives and pulmonary ventilation agents, while not psychotropics in the strict sense of the definition, are used either to treat some facet of mental illness (such as delirium) or some critical medical illness that is out of control because of the influence of the ongoing symptoms of mental illness. Such medications can and will be administered under this policy when, in the opinion of the attending practitioner, with concurrence of the Chief Medical Officer and the IMRB, administration of such medication(s) will

improve the patient's mental status (treat the mental illness symptoms) and/or treat the immediate medical problem which is related to or caused by the mental illness symptoms.

**IV. RESPONSIBILITIES:**

- A. The Medical Director or designee may, in the presence of a valid court order, authorize the involuntary use of medications prior to review and authorization of the IMRB. In that event, he/she will assure a prompt meeting of the IMRB and ensure reports of relevant information are prepared and distributed to other parties as required by statute.
- B. The IMRB retains the authority to determine whether or not involuntary medications may continue subject to limitations of applicable statute.
- C. The Attending Practitioner will determine the need for involuntary medications, complete the Involuntary Medication Request form, forward it to the Medical Director or designee, document the need for medications in the patient record and assure that the proper authorization is obtained **before** medications are given involuntarily, except during a documented emergency. The attending practitioner is responsible for providing or attempting to provide a description of the risks and benefits of the proposed medications, and alternatives thereto, if any exist. The attending practitioner must also request reviews by the IMRB and document results thereof in the medical record.
- D. Staff Assistant – is responsible for:
  - 1. Preparing annual involuntary medication report for the Medical Director's review and forwards to the Administrator, Addictive and Mental Disorders Division.
  - 2. Coordinates involuntary medication review notification of attendees for initial involuntary medication reviews.
  - 3. Tracks, suspense, and schedules 14-day and 90-day reviews.

**V. PROCEDURE:**

**Responsible Staff**

**Procedure**

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| <ul style="list-style-type: none"> <li>A. Attending Practitioner</li> </ul> | <ul style="list-style-type: none"> <li>1. Determines need for involuntary meds.</li> <li>2. Orders medications in emergency, documenting as necessary.</li> <li>3. Determines if court order authorizes meds.</li> <li>4. Files petition for involuntary meds as necessary.</li> <li>5. Completes involuntary med request, sends it and copy of court order to Medical Director.</li> </ul> |
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|  | <ol style="list-style-type: none"> <li>6. Contacts Medical Director directly for authorization to medicate, (if Medical Director or designee is not available, does not require authorization in an emergency).</li> </ol>   |
| <p>B. Medical Director or designee</p> | <ol style="list-style-type: none"> <li>1. Reviews information about request, authorizes medications in an emergency, informs attending psychiatrist of decision.</li> <li>2. Appoints a meeting of the IMRB within 5 working days of the request to use involuntary medications.</li> <li>3. Promptly notifies patient, patient attorney/advocate, Administrator of Mental Health Division of DPHHS of time and place of hearing.</li> <li>4. Maintains database of all involuntary medication actions.</li> <li>5. Notifies patient of the Involuntary Medication Review Board's decision (approval or disapproval) for initial and continued administration of involuntary medication.</li> <li>6. Compiles annual report to the Governor per statute and forwards to the Administrator of the Addictive and Mental Disorders Division.</li> </ol> |
| <p>C. Chair, IMRB</p>                  | <ol style="list-style-type: none"> <li>1. Conducts review, hearing evidence of attending psychiatrist, patient, attorney, advocate, etc.</li> <li>2. Notifies necessary persons and Medical Director of decision of the Board to: a) authorize medications b) not authorize medications or c) authorize with stipulations.</li> </ol>  |
| <p>D. Attending Practitioner</p>       | <ol style="list-style-type: none"> <li>1. Institutes involuntary meds as authorized after making attempts to inform patient of risks and benefits of medications.</li> <li>2. Discontinues order for involuntary meds pursuant to policy.</li> <li>3. Requests 14 and 90 day reviews by IMRB where required.</li> </ol>  |
| <p>E. Staff Assistant</p>              | <ol style="list-style-type: none"> <li>1. Tracks process of involuntary medications, assures proper documentation by staff, keeps records of all involuntary medication requests and procedures, and assures 14 and 90 day reviews occur as required.</li> <li>2. Schedules a meeting of the IMRB within 5 working days of the request to use involuntary medications.</li> </ol>  |

**VI. REFERENCES:** MCA 53-21-127(6)

**VII. COLLABORATED WITH:** Hospital Administrator, Medical Director, President of the Medical Staff, DPHHS Attorney

**VIII. RESCISSIONS:** #PS-02, *Involuntary Medications* dated March 31, 2003; #PS-02, *Involuntary Medications* dated May 20, 2002; Policy #PS-02, *Involuntary Medications*

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**IX. DISTRIBUTION:** All hospital policy manuals

## XI. FOLLOW-UP RESPONSIBILITY: Medical Director

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Ed Amberg Date  
Hospital Administrator

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Thomas Gray, MD Date  
Medical Director